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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 000540

SIPDIS

STATE FOR SA/RA AND IO

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TAGS: [PTER](#) [PREL](#) [NP](#) [UNSC](#)

SUBJECT: EMBASSY REVIEW OF NEPAL'S UN COUNTERTERRORISM REPORT

REF: STATE 11645

Classified By: POL/ECON:PMAHONEY. REASON 1.5(B,D)

11. (C) The Embassy has reviewed the Government of Nepal (GON) report on its implementation of UNSCR 1373. For many of its responses, the GON cites the Terrorism and Disruptive Activities Ordinance (TADO), which has not yet been passed by Parliament and which narrowly interprets terrorism as acts of damage or destruction that undermine the sovereignty, peace, or security of the Kingdom of Nepal. The TADO is directed at containing a violent domestic Maoist insurgency whose partisans seek to overthrow the constitutional monarchy. Virtually all of Nepal's limited security, law enforcement, and intelligence facilities are likewise focused on containing this domestic insurgency. Because implementation of existing laws and regulations--whether related to terrorism or not--is generally weak and ineffective, we caution that adoption of new legislation does not necessarily imply greater ability to address potential acts of terrorism. We do not question the GON's willingness to fight international terrorism; we question only its capacity to do so.

12. (C) Response to Operative Paragraph 1:
The GON has not taken any legislative steps--other than prohibiting extortion or robbery under the TADO--to suppress the financing of terrorist acts. However, as we have passed on successive lists of organizations and individuals proscribed in Executive Order 13224, the GON, through its Central Bank, has routinely acted quickly to circulate that information, along with instructions to freeze any accounts of customers discovered to be on the lists, to commercial banks and other financial institutions. We are unaware of any other action--other than passing on this information at our request--that the GON has undertaken on its own initiative in this regard. Officials at the Ministry of Finance, Ministry of Foreign Affairs, and Central Bank tell us that no such accounts have been identified, and express general doubt, given the size of the economy and the limited nature of the banking system, that Nepal is a channel for terrorist financing. If such accounts were identified, the Central Bank could, under existing regulations, freeze them. The Ministry of Finance has told us that it is not currently contemplating any new legislation to strengthen existing controls against terrorist financing. In general, our sense is that, if confronted by another friendly government with compelling evidence of terrorist financing, the GON would gladly cooperate but is unlikely to initiate such an investigation or discover such evidence on its own.

13. (C) Operative Paragraph 2 (sub-paragraph a):
No existing legislation specifically prohibits recruitment by terrorist organizations, other than broad prohibitions against terrorist activities in the TADO. The Arms and Ammunition Act restricts the use and availability of firearms, but Nepal's inability to police its lengthy border with India and Tibet makes the smuggling of weapons comparatively easy. Despite the report's claim that "mechanisms to share information . . . with countries in the region" are in place, we note that GON officials often complain that their Indian counterparts fail to cooperate and share information on Nepali Maoist insurgents believed to be living and/or traveling in India. There is no institutional culture of intelligence sharing among the various security forces within the GON, as well as none between the civilian government and the military, a shortcoming that the newly established (March 8) National Security Council, comprised of representatives of the military, police, Armed Police Force, and domestic intelligence service, is the most recent attempt to overcome.

14. (C) Operative Paragraph 2 (sub-paragraphs b-f): Despite GON's best efforts to prevent such activities, Nepal's territory has been used as a safe haven by terrorists. Indian government officials routinely complain that Pakistani terrorists use Nepal as a channel. The GON has told us it has assured India that, once provided with firm evidence of such activities, the GON will take immediate action. In fact, the GON has expelled three Pakistan Embassy staff members since 2000, reportedly for possession of explosives and/or counterfeit currency. Nepal has cooperated with the United States and India to render or extradite suspected

terrorists.

15. (C) Operative Paragraph 2 (sub-paragraph g): Border controls between India and Nepal are lax. At present, the GON does not require any documentation from Indian citizens crossing into Nepal by land, although bilateral discussions are currently underway, according to the head of the Immigration Department, to institute such requirements. Indian citizens arriving by air may present a citizenship certificate, driver's license, or a certification from their local District Administration Office, in lieu of a passport. Indian citizens may stay in Nepal indefinitely. There are only 15 customs checkpoints along the border with India where goods and luggage are checked. Indian citizens may also cross at numerous other points, which are manned only by police posts unequipped to check the integrity of travel documents. The Immigration Department maintains a watchlist of individuals--including, presumably, known terrorists--to be denied entry into the country, but only immigration officials at the international airports have access to this database. Nepali citizenship certificates, driver's licenses, and District Administration Office certificates contain no security features and could easily be forged, according to an immigration official.

16. (C) Operative Paragraph 3: Nepal has generally demonstrated a willingness to be as helpful as possible in combating terrorism, despite its limited capacity and resources. The GON tells us it is actively reviewing the six remaining Counter-terrorism Conventions it has not yet signed; review of the International Convention for the Suppression of the Financing of Terrorism appears to be the farthest along. Nepal has not acceded to the UN Refugee Convention and has no domestic laws related to refugees, and thus has no legislative framework under which to address the question of the abuse of refugee status by terrorists. In Nepal, refugee cases are handled under an informal agreement with UNHCR.

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